
By: **Delegates Doory and Feldman**
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Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Corporations - Miscellaneous Provisions**

3 FOR the purpose of authorizing certain officers of a corporation to sign a stock
4 certificate; authorizing the board of directors of a corporation to amend the
5 charter of the corporation to effect a reverse stock split without stockholder
6 action under certain circumstances; requiring the corporation to give certain
7 written notice of the reverse stock split to certain holders of record of the
8 combined shares of stock; authorizing the holders of common stock entitled to
9 vote generally in the election of directors to take action or consent to any action
10 by delivering a consent in writing or by electronic transmission of the
11 stockholders entitled to cast not less than the minimum number of votes that
12 would be necessary to authorize or take the action at a stockholders meeting
13 under certain circumstances; requiring a certain consent to be delivered to the
14 corporation by delivery to certain persons; authorizing a stockholder to deliver a
15 certain consent in paper form, by hand, by certified or registered mail, return
16 receipt requested, or by electronic transmission; authorizing the board of
17 directors to adopt reasonable procedures for delivering certain consents instead
18 of holding a meeting; prohibiting a written consent from taking effect unless a
19 certain condition is met; providing that charter documents filed with the State
20 Department of Assessments and Taxation in accordance with an action taken
21 under this Act may provide that the stockholders approved the action in a
22 certain manner; repealing a certain provision relating to the management of the
23 assets of a voluntarily dissolved corporation; requiring the business and affairs
24 of the corporation to be managed under the direction of the board of directors
25 solely for a certain purpose under certain circumstances; requiring the directors
26 to take certain actions on behalf of a corporation; providing that dissolution of a
27 corporation does not subject the directors of a corporation to a standard of
28 conduct other than the standards of conduct for directors established by a
29 certain provision of law; clarifying certain provisions relating to directors;
30 providing for the application of certain provisions of this Act; defining a certain
31 term; and generally relating to Maryland corporations.

32 BY repealing and reenacting, with amendments,
33 Article - Corporations and Associations
34 Section 2-212, 2-309, 2-505, 2-604, 3-410, 3-411, and 3-412

1 Annotated Code of Maryland
2 (1999 Replacement Volume and 2003 Supplement)

3 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
4 MARYLAND, That the Laws of Maryland read as follows:

5 **Article - Corporations and Associations**

6 2-212.

7 (a) Each stock certificate shall be signed by the president, a vice president,
8 [or] THE CHIEF EXECUTIVE OFFICER, THE CHIEF OPERATING OFFICER, THE CHIEF
9 FINANCIAL OFFICER, the chairman of the board, OR THE VICE CHAIRMAN OF THE
10 BOARD and countersigned by the secretary, an assistant secretary, the treasurer, or
11 an assistant treasurer.

12 (b) Each certificate which represents any stock, bond, note, guaranty,
13 obligation, or other corporate security:

14 (1) May be sealed with the actual corporate seal or a facsimile of it or in
15 any other form; and

16 (2) The signatures may be either manual or facsimile signatures.

17 (c) A certificate described in this section is valid and may be issued whether or
18 not an officer who signed it is still an officer when it is issued.

19 2-309.

20 (a) IN THIS SECTION, "REVERSE STOCK SPLIT" MEANS A COMBINATION OF
21 OUTSTANDING SHARES OF STOCK OF A CORPORATION INTO A LESSER NUMBER OF
22 SHARES OF STOCK OF THE SAME CLASS WITHOUT ANY CHANGE IN THE AGGREGATE
23 AMOUNT OF STATED CAPITAL OF THE CORPORATION, EXCEPT FOR A CHANGE
24 RESULTING FROM THE ELIMINATION OF FRACTIONAL SHARES IN ACCORDANCE
25 WITH § 2-214 OF THIS TITLE.

26 (B) If authorized by its board of directors, a corporation may make
27 distributions to its stockholders, subject to any restriction in its charter and the
28 limitations in § 2-311 of this subtitle.

29 [(b)] (C) (1) A division of issued shares into a greater number of shares of
30 the same class without any change in the aggregate amount of stated capital is a
31 stock split, and a division with a change in the aggregate amount of stated capital is
32 a stock dividend within the meaning of this subsection.

33 (2) If authorized by its board of directors and unless the charter provides
34 otherwise, shares may be issued by a corporation, without consideration to the
35 holders of 1 or more classes or series of stock, as a stock split or a stock dividend.

1 (3) If a stock dividend is payable in a corporation's own stock with par
2 value, the shares shall be issued at par value and, at the time the stock dividend is
3 paid, the corporation shall transfer from surplus to stated capital an amount at least
4 equal to the aggregate par value of the shares to be issued.

5 (4) If a stock dividend is payable in a corporation's own stock without par
6 value, the board of directors shall adopt at the time the stock dividend is declared a
7 resolution which sets the aggregate amount to be attributed to stated capital with
8 respect to the shares that constitute the stock dividend and, at the time the stock
9 dividend is paid, the corporation shall transfer at least that amount from surplus to
10 stated capital.

11 (5) A dividend payable in shares of one class of a corporation's stock may
12 not be declared or paid to the holders of shares of another class of stock unless the
13 payment has been:

14 (i) Approved by the board of directors in accordance with specific
15 authority in the charter; or

16 (ii) Approved at a meeting of stockholders by the affirmative vote of
17 a majority of all the votes entitled to be cast on the matter of each class entitled to
18 vote on it.

19 [(c)] (D) If the board of directors of a corporation has given general
20 authorization for a distribution and provides for or establishes a method or procedure
21 for determining the maximum amount of the distribution, the board may delegate to
22 a committee of the board or an officer of the corporation the power, in accordance with
23 the general authorization, to fix the amount and other terms of the distribution.

24 (E) (1) THIS SUBSECTION APPLIES TO A CORPORATION:

25 (I) WITH A CLASS OF EQUITY SECURITIES REGISTERED UNDER
26 THE SECURITIES EXCHANGE ACT OF 1934; OR

27 (II) REGISTERED AS AN OPEN-END INVESTMENT COMPANY UNDER
28 THE INVESTMENT COMPANY ACT OF 1940.

29 (2) UNLESS THE CHARTER OF A CORPORATION PROVIDES OTHERWISE,
30 THE BOARD OF DIRECTORS OF THE CORPORATION MAY AMEND THE CHARTER, WITH
31 THE APPROVAL OF A MAJORITY OF THE BOARD OF DIRECTORS AND WITHOUT
32 STOCKHOLDER ACTION, TO EFFECT A REVERSE STOCK SPLIT THAT RESULTS IN A
33 COMBINATION OF SHARES OF STOCK AT A RATIO OF NOT MORE THAN 10 SHARES OF
34 STOCK INTO 1 SHARE OF STOCK IN ANY 12-MONTH PERIOD.

35 (3) WITHIN 20 DAYS AFTER THE EFFECTIVE DATE OF THE REVERSE
36 STOCK SPLIT, THE CORPORATION SHALL GIVE WRITTEN NOTICE OF THE REVERSE
37 STOCK SPLIT TO EACH HOLDER OF RECORD OF THE COMBINED SHARES OF STOCK AS
38 OF THE EFFECTIVE DATE.

1 2-505.

2 (a) Except as provided in subsection (b) of this section, any action required or
3 permitted to be taken at a meeting of the stockholders may be taken without a
4 meeting if a unanimous consent which sets forth the action is:

5 (1) Given in writing or by electronic transmission by each stockholder
6 entitled to vote on the matter; and

7 (2) Filed in paper or electronic form with the records of stockholders
8 meetings.

9 (b) (1) Unless the charter requires otherwise, the holders of any class of
10 [stock] STOCK, other than common stock[,] entitled to vote generally in the election
11 of directors, may take action or consent to any action by delivering a consent in
12 writing or by electronic transmission of the stockholders entitled to cast not less than
13 the minimum number of votes that would be necessary to authorize or take the action
14 at a stockholders meeting if the corporation gives notice of the action to each
15 [stockholder] HOLDER OF THE CLASS OF STOCK not later than 10 days after the
16 effective time of the action.

17 (2) IF AUTHORIZED BY THE CHARTER OF A CORPORATION, THE
18 HOLDERS OF COMMON STOCK ENTITLED TO VOTE GENERALLY IN THE ELECTION OF
19 DIRECTORS MAY TAKE ACTION OR CONSENT TO ANY ACTION BY DELIVERING A
20 CONSENT IN WRITING OR BY ELECTRONIC TRANSMISSION OF THE STOCKHOLDERS
21 ENTITLED TO CAST NOT LESS THAN THE MINIMUM NUMBER OF VOTES THAT WOULD
22 BE NECESSARY TO AUTHORIZE OR TAKE THE ACTION AT A STOCKHOLDERS MEETING
23 IF THE CORPORATION GIVES NOTICE OF THE ACTION TO EACH HOLDER OF THE
24 CLASS OF COMMON STOCK NOT LATER THAN 10 DAYS AFTER THE EFFECTIVE DATE
25 OF THE ACTION.

26 (C) ANY CONSENT AUTHORIZED BY THIS SECTION SHALL BE DELIVERED TO
27 THE CORPORATION BY DELIVERY TO ITS PRINCIPAL OFFICE IN THE STATE, ITS
28 RESIDENT AGENT, OR THE OFFICER OR AGENT OF THE CORPORATION THAT HAS
29 CUSTODY OF THE BOOK IN WHICH PROCEEDINGS OF MINUTES OF STOCKHOLDERS
30 MEETINGS ARE RECORDED.

31 (D) A STOCKHOLDER MAY DELIVER THE CONSENT AUTHORIZED BY THIS
32 SECTION IN PAPER FORM, BY HAND, BY CERTIFIED OR REGISTERED MAIL, RETURN
33 RECEIPT REQUESTED, OR BY ELECTRONIC TRANSMISSION.

34 (E) THE BOARD OF DIRECTORS MAY ADOPT REASONABLE PROCEDURES FOR
35 DELIVERING CONSENTS INSTEAD OF HOLDING A MEETING UNDER THIS SECTION.

36 (F) A WRITTEN CONSENT MAY NOT TAKE EFFECT UNLESS WRITTEN
37 CONSENTS SIGNED BY A SUFFICIENT NUMBER OF STOCKHOLDERS TO TAKE ACTION
38 ARE DELIVERED TO THE CORPORATION WITHIN 60 DAYS AFTER THE DATE ON WHICH
39 THE EARLIEST CONSENT IS DATED IN ACCORDANCE WITH PROCEDURES ADOPTED
40 UNDER SUBSECTION (E) OF THIS SECTION.

1 (G) ANY CHARTER DOCUMENTS FILED WITH THE DEPARTMENT IN
2 ACCORDANCE WITH AN ACTION TAKEN UNDER THIS SECTION MAY PROVIDE THAT
3 THE ACTION WAS APPROVED BY THE STOCKHOLDERS IN THE MANNER PROVIDED BY
4 THIS SECTION.

5 2-604.

6 (a) This section does not apply to a charter amendment by the board of
7 directors in accordance with § 2-105(a)(12) OR § 2-309(E) of this title.

8 (b) If there is any stock outstanding or subscribed for and entitled to be voted
9 on the charter amendment, it shall be approved as provided in this section.

10 (c) Except as provided in § 2-112 of this title, the board of directors of a
11 corporation proposing a charter amendment shall:

12 (1) Adopt a resolution which sets forth the proposed amendment and
13 declares that it is advisable; and

14 (2) Direct that the proposed amendment be submitted for consideration
15 at either an annual or a special meeting of the stockholders.

16 (d) (1) Notice which states that a purpose of the meeting will be to act on the
17 proposed amendment shall be given by the corporation in the manner required by
18 Subtitle 5 of this title to:

19 (i) Each stockholder entitled to vote on the proposed amendment;
20 and

21 (ii) Each stockholder not entitled to vote on the proposed
22 amendment if the contract rights of his stock, as expressly set forth in the charter,
23 would be altered by the amendment.

24 (2) The notice shall include a copy of the amendment or a summary of
25 the changes it will effect.

26 (e) The proposed amendment shall be approved by the stockholders of the
27 corporation by the affirmative vote of two thirds of all the votes entitled to be cast on
28 the matter.

29 3-410.

30 (a) When a Maryland corporation is voluntarily dissolved, until a court
31 appoints a receiver, [the directors of the corporation become the trustees of its assets
32 for purposes of liquidation] THE BUSINESS AND AFFAIRS OF THE CORPORATION
33 SHALL BE MANAGED UNDER THE DIRECTION OF THE BOARD OF DIRECTORS SOLELY
34 FOR THE PURPOSE SET FORTH IN § 3-408(B) OF THIS SUBTITLE.

1 (b) [The director-trustees are vested in their capacity as trustees with full
2 title to all the assets of the corporation. They] ON BEHALF OF THE CORPORATION,
3 THE DIRECTORS shall:

4 (1) Collect and distribute the assets, applying them to the payment,
5 satisfaction, and discharge of existing debts and obligations of the corporation,
6 including necessary expenses of liquidation; and

7 (2) Distribute the remaining assets among the stockholders.

8 (c) The [director-trustees] DIRECTORS may:

9 (1) Carry out the contracts of the corporation;

10 (2) Sell all or any part of the assets of the corporation at public or private
11 sale;

12 (3) Sue or be sued [in their own names as trustees or] in the name of the
13 corporation; and

14 (4) Do all other acts consistent with law and the charter of the
15 corporation necessary or proper to liquidate the corporation and wind up its affairs.

16 (d) [The director-trustees govern by majority vote] DISSOLUTION OF A
17 CORPORATION DOES NOT SUBJECT THE DIRECTORS OF A CORPORATION TO A
18 STANDARD OF CONDUCT OTHER THAN THE STANDARDS OF CONDUCT FOR
19 DIRECTORS SET FORTH IN § 2-405.1 OF THIS ARTICLE.

20 3-411.

21 (a) A director, stockholder, or creditor of a Maryland corporation which is
22 dissolving voluntarily may petition a court of equity to take jurisdiction of the
23 liquidation of the corporation.

24 (b) After notice and hearing, the court for good cause shown may order the
25 corporation liquidated under court supervision either by the directors [as trustees] or
26 by one or more receivers appointed by the court.

27 (c) The authority of the [director-trustees] DIRECTORS terminates when a
28 court appoints a receiver.

29 3-412.

30 (a) If a Maryland corporation is voluntarily dissolved and assets are available
31 for distribution to stockholders, the [director-trustees] DIRECTORS or receiver may
32 notify the stockholders to prove their interests within a specified time at least 60 days
33 after the date of the notice. The notice shall be mailed to each stockholder at his
34 address as it appears on the records of the corporation and published at least once a
35 week for three successive weeks in a newspaper of general circulation published in

1 the county in which the principal office of the corporation is located. The date of the
2 notice is the later of the date of mailing or the date of first publication.

3 (b) After the expiration of the time specified in the notice, the
4 [director-trustees] DIRECTORS or receiver may distribute to each stockholder who
5 has proved his interest his proportionate share of the assets, reserving the shares of
6 those who have not proved their interests. Thereafter, the [director-trustees]
7 DIRECTORS or receiver may incur reasonable expenses in locating the remaining
8 stockholders and securing proof of interests from them and may charge the expenses
9 against the funds undistributed at the time the expenses are incurred. From time to
10 time the [director-trustees] DIRECTORS or receiver may distribute a proportionate
11 share to any stockholder who has proved his interest since the prior distribution.

12 (c) No earlier than three years from the date of the original notice, the
13 [director-trustees] DIRECTORS or receiver may distribute all surplus assets
14 remaining under his control to those stockholders who have proved their interests
15 and are entitled to distribution. After final distribution, the interest of any
16 stockholder who has not proved his interest is forever barred and foreclosed.

17 (d) (1) Any assets remaining unclaimed 60 days after the final distribution,
18 whether through failure or inability of the postal authorities to deliver the
19 distribution checks or for any other reason is presumed abandoned and shall be
20 reported to the abandoned property unit of the State Comptroller's office in
21 accordance with Title 17 of the Commercial Law Article, the Maryland Uniform
22 Disposition of Abandoned Property Act.

23 (2) The [director-trustees] DIRECTORS or receiver are released and
24 discharged from all further liability in the matter on payment or delivery of all
25 unclaimed assets to the abandoned property unit of the State Comptroller's office.

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
27 June 1, 2004.